

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	CRIMINAL NO. 05-10154-MLW
v.)	
)	
JOHN J. DIAMONT, JR.,)	
Defendant)	

JOINT MEMORANDUM FOR INITIAL STATUS CONFERENCE

Pursuant to the Court's Initial Scheduling Order, the parties hereby submit this Joint Memorandum regarding the items set forth in Local Rule 116.5(A)(1) to A(7):

1. The defendant requests relief from the timing requirements of Local Rule 116.3 and requests that the deadline for discovery motions be extended to October 31, 2005. The parties shall discuss the defendant's discovery requests in advance of that deadline, and exchange discovery request letters if need be.

2. The defendant requests discovery from the government concerning expert witnesses under Fed. R. Crim. P. 16(a)(1)(G). The parties suggest that the Government shall make its expert disclosures 60 days prior to trial and the defendant shall make his expert disclosures 30 days prior to trial. In addition the Government shall make disclosure to the defendant forthwith of the cash payments it alleges were made to the defendant during the years 1996 to 1999 which were not reported on the defendant's personal income tax returns.

3. The United States does not anticipate providing additional

discovery as a result of its future receipt of information, documents or reports of examinations or tests. The United States may file a motion for a protective order in connection with the disclosure of tax returns for a prospective witness. The United States expects to resolve this issue by the time of the Initial Status Conference.

4. The parties agree a motions date should be set under Fed. R. Crim. P. 12(c). The defendant suggests October 31, 2005 as the deadline for discovery motions.

5. The Court has already excluded the delay from July 5 to August 2, 2005 under the Speedy Trial Act. The government requests that the period from August 3, 2005 until the motions deadline be excluded pursuant to 18 U.S.C. §3161(h)(8), since the ends of justice served by excluding this period outweigh the interests of the defendant and the public in a speedy trial, since such delay will allow the defendant time to complete discovery and decide whether he wants to file any pre-trial motions.

6. A trial is anticipated in this case and the parties estimate the trial will last two weeks.

7. The defendant suggests November 23, 2005 for an Interim Status Conference and oral argument on any discovery motions.

8. Mr. Diamont requests pursuant to Fed. R. Crim. P. 17(c), that the Court establish October 31, 2005 as a return date for documents the defense will subpoena from nonparty custodians. The defendant expects that he will need to conduct an indepth financial

analysis as part of his defense. A substantial number of relevant documents are in the possession of persons and entities who are not under the control of the government or Mr. Diamont. Thus, the defendant needs to subpoena these documents now, so that he can prepare his defense. If Mr. Diamont must wait for the setting of a trial date, and cannot enforce document production before the trial date, Mr. Diamont fears he will be compelled to seek a delay of the trial date while he gathers such records.

Respectfully submitted,

For the United States:

For the defendant:

MICHAEL J. SULLIVAN
United States Attorney

By:

/s/ Peter A. Mullin
PETER A. MULLIN
Assistant U.S. Attorney

/s/ Michael Kendall (PAM)
MICHAEL KENDALL, ESQ.
Attorney for John J. Diamont, Jr.

Dated: August 5, 2005